

COPY

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSISSIPPI

NATHANIEL NKEMEKOLAM

FILED

PLAINTIFF

VERSUS

NOV 29 2021 CIVIL ACTION NO.:

21-206(1)

LOWES HOME CENTER, LLC

RANDY CARNEY, CLERK

DEFENDANT

BY _____ D.C.

JURY TRIAL DEMANDED

COMPLAINT

This is an action to recover actual and punitive damages for discrimination in violation of the Title VII of the Civil Rights Act of 1964 and discrimination. The following facts support the action:

1.

Plaintiff, Nathaniel Nkemekolam, is an adult resident citizen of Jackson County, Mississippi who may be contacted through undersigned Counsel.

2.

Defendant, Lowes Home Center, LLC is a foreign corporation licensed and doing business in Mississippi who may be served with process through its registered agent Corporation Service Company 7716 Old Canton Road, Suite C, Madison, Mississippi 39110.

3.

This court has concurrent jurisdiction under 28 U.S.C. § 1331 and civil rights jurisdiction under 28 § 1343, for a cause of action arising under the Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991. Venue is proper, because Defendant employed Plaintiff in Gautier, Mississippi.

4.

Plaintiff has filed an EEOC charge attached hereto as Exhibit "A" and has received a Right-to-Sue letter attached hereto as Exhibit "B".

5.

Plaintiff was employed by the Defendant at its store in Gautier, Mississippi.

6.

While working for the Defendant, Plaintiff made several complaints about other employees making derogatory complaints about Plaintiff's immigration status and being from Africa, remarks such as riding elephants. Management did nothing about Plaintiff's complaints.

7.

Plaintiff was terminated on October 8, 2020 for allegedly clocking in improperly.

8.

All other employees follow the same procedure that Plaintiff followed regarding clocking in before meetings, but Plaintiff is the only one who was reprimanded and/or terminated.

9.

Plaintiff's termination was a direct result of his national origin and immigration status.

10.

The acts and omissions of the Defendant were in violation of Title VII. Plaintiff lost his employment because Plaintiff is an immigrant who was mistreated by his coworkers.

11.

Plaintiff is entitled to actual damages for mental anxiety and stress and lost income. Defendant's actions are outrageous such that punitive damages are due.

PRAYER FOR RELIEF

Plaintiff prays for actual, compensatory, special, and punitive damages in the amount to be determined by a jury, reinstatement and for reasonable attorney's fees.

THIS the 21 day of November, 2021.

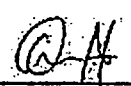
Respectfully submitted,

**NATHANIEL NKEMEKOLAM,
PLAINTIFF**

DANIEL M. WAIDE, MSB #103543

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EEOC Form 6 (801)

CHARGE OF DISCRIMINATION <small>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</small>		Charge Presented to: Agency(ies) Charge No(s): <div style="display: flex; justify-content: space-between; align-items: center;"> <div> <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC </div> <div>423-2021-00314</div> </div>	
_____ and EEOC <small>State or local Agency, if any</small>			
Name (Indicate Mr. Ms. Mrs.) Nathaniel Nkemekolam		Home Phone (Incl. Area Code) 228-235-6126	
Date of Birth 04/27/1988			
Street Address 2420 Linwood Dr, Gautier, MS 39553		City, State and ZIP Code	
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name Lowe's		No. Employees, Members 15 +	
Phone No. (Include Area Code) 228-497-0524			
Street Address 3200 US-90 Gautier, MS 39553		City, State and ZIP Code	
Name Lowe's		No. Employees, Members 15+	
Phone No. (Include Area Code) 800-455-6937			
Street Address 1000 Lowe's Boulevard, Mooresville NC 28117		City, State and ZIP Code	
DISCRIMINATION BASED ON (Check appropriate box(es).) <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div> <input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input checked="" type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify below.) </div> <div style="border: 1px solid black; padding: 5px; width: 30%;"> DATE(S) DISCRIMINATION TOOK PLACE Earliest Latest October 8, 2020 <input type="checkbox"/> CONTINUING ACTION </div> </div>			
THE PARTICULARS ARE (If additional paper is needed, attached extra sheet(s)): I want the EEOC to investigate my claims of discrimination under Title VII. I was terminated, at least in part, because I am a legal immigrant from Africa. I complained several times about employees making comments about Africa – like making comments about riding elephants. Management did nothing and also made similar jokes. One day I was sick and went to the hospital. When I returned employees talked about me being a burden on taxpayers. I complained to management but nothing was done. I was terminated for clocking in and going to put my lunchbox in the breakroom. Everyone does this but I was the only employee fired for doing it. I would like the EEOC to investigate my charges because my termination was because of my national original/immigration status.			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY – When necessary for State and Local Agency Requirements	
I declare under penalty of perjury that the above is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT	
<div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="text-align: center;"> <u>12/18/2020</u> Date </div> <div style="text-align: center;">  Charging Party Signature </div> </div>		SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)	



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Nathaniel Nkemekolam
2420 Linwood Dr.
Gautier, MS 39553

From: Jackson Area Office
Dr. A. H. McCoy Federal Building
100 West Capitol Street, Suite 338
Jackson, MS 39269

☐

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

423-2021-00314

CASSANDRA EVANS-BROWN,
Investigator

(769) 487-6922

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA **must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

☒

More than 180 days have passed since the filing of this charge.

☐

Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.

☒

The EEOC is terminating its processing of this charge.

☐

The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

☐

The EEOC is closing your case. Therefore, your lawsuit under the ADEA **must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice**. Otherwise, your right to sue based on the above-numbered charge will be lost.

☐

The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible**.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

Eszean McDuffey,
Director

Digitally signed by Eszean
McDuffey, Director
Date: 2021.08.31 10:05:25 -05'00'

Enclosures(s)

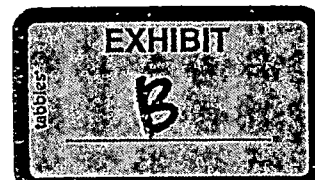
Eszean S. McDuffey,
Director

(Date Issued)

cc: Patti Lane
Paralegal
1000 LOWES BLVD
MAILCODE: LGL
Mooresville, NC 28117

Daniel M. Waide
JOHNSON, RATLIFF & WAIDE, PLLC
1300 Hardy Street, 2nd Floor
Hattiesburg, MS 39401

Reed L. Russell
Phelps Dunbar LLP
100 S ASHLEY DR, STE 2000
Tampa, FL 33602



INFORMATION RELATED TO FILING SUIT UNDER THE LAWS ENFORCED BY THE EEOC

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA), the Genetic Information Nondiscrimination Act (GINA), or the Age Discrimination in Employment Act (ADEA):

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope or record of receipt, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was issued to you** (as indicated where the Notice is signed) or the date of the postmark or record of receipt, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit **before 7/1/10** – *not* 12/1/10 – in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.